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STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:)	Docket HWCA 01/02-4002
)	
Kinder Morgan Energy Partners, L.P.)	CONSENT ORDER
404 E. Noffsinger Road)	
Calipatria, CA 92231)	Health and Safety Code
EPA ID No. CAT080011174)	Section 25187
)	
Respondent.)	
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The State Department of Toxic Substances Control (Department) and Kinder Morgan Energy Partners, L.P. (Respondent) enter into this Consent Order and agree as follows:

1. Respondent operates a liquids storage facility located at 404 E. Noffsinger Road, Calipatria, CA 92231 (Site).
2. The Department inspected the Site on June 4, 2001.
3. The Department alleges the following:
 - 3.1. The Respondent generates hazardous wastes and ships those wastes off site using uniform hazardous waste manifests.
 - 3.2 The Respondent violated Health and Safety Code section 25201, subsection (a) in that on or about June 4, 2001, the Respondent was storing hazardous waste in a sump with a capacity of eighty (80) barrels, without a permit from the Department.
 - 3.3. The Respondent violated Health and Safety Code section 25189.2, subsection (c) in that Respondent, at a n undetermined date, caused the disposal of a hazardous waste, sandblast grit, to an unauthorized point, specifically, soils immediately adjacent to Storage Tank # 4.

4. A dispute exists regarding the alleged violations.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code section 25187.

7. Respondent waives any right to a hearing in this matter.

8. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

9. Respondent does not admit the violations described above.

SCHEDULE FOR COMPLIANCE

10.1 Respondent shall comply with the following:

10.1.1 Respondent shall cease storing hazardous waste in the sump, unless Respondent receives authorization from the Department.

10.1.2. Respondent has provided information that approximately 13,600pounds of sandblasting grit was removed from the facility and transported to a Treatment, Storage and/or Disposal Facility.

10.2. Submittals: All submittals from Respondent pursuant to this Consent Order shall be sent simultaneously to:

Nennet V. Alvarez, Branch Chief
Statewide Compliance Division
Cypress Branch
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, CA 90630

Pamela LePen
Senior Hazardous Substances Scientist
Statewide Compliance Division
Cypress Branch
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, CA 90630

1 10.3. Communications: All approvals and decisions of the Department
2 made regarding such submittals and notifications shall be communicated to
3 Respondent in writing by a Branch Chief, Department of Toxic Substances Control,
4 or his/her designee. No informal advice, guidance, suggestions, or comments by
5 the Department regarding reports, plans, specifications, schedules, or any other
6 writings by Respondent shall be construed to relieve Respondent of its obligation to
7 obtain such formal approvals as may be required.

8 10.4. Department Review and Approval: If the Department determines
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10 any report, plan, schedule, or other document submitted for approval pursuant to
11 this Consent Order fails to comply with the Order or fails to protect public health or
12 safety or the environment, the Department may return the document to
13 Respondent with recommended changes and a date by which Respondent must
14 submit to the Department a revised document incorporating the recommended
15 changes.

16 10.5. Compliance with Applicable Laws: Respondent shall carry out this
17 Order in compliance with all local, State, and federal requirements, including but
18 Not limited to requirements to obtain permits and to assure worker safety.

19 10.6. Endangerment during Implementation: In the event that the
20 Department determines that any circumstances or activity (whether or not
21 pursued in compliance with this Consent Order) are creating an imminent or
22 substantial

23 endangerment to the health or welfare of people on the site or in the surrounding
24 area or to the environment, the Department may order Respondent to stop further
25 implementation for such period of time as needed to abate the endangerment.
26 Any deadline in this Consent Order directly affected by a Stop Work Order under

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1 this section shall be extended for the term of such Stop Work Order.

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3 10.7. Liability: Nothing in this Consent Order shall constitute or be construed
4 as a satisfaction or release from liability for any conditions or claims arising as a result
5 of past, current, or future operations of Respondent, except as provided in this
6 Consent Order. Notwithstanding compliance with the terms of this Consent Order,
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8 Respondent may be required to take further actions as are necessary to protect
9 public health or welfare or the environment.

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11 10.8. Site Access: Access to the Site shall be provided at all reasonable
12 times to employees, contractors, and consultants of the Department, and any
13 agency having jurisdiction. Nothing in this Consent Order is intended to limit in any
14 way the right of entry or inspection that any agency may otherwise have by
15 operation of any law. The Department and its authorized representatives may
16 enter and move freely about all property at the Site at all reasonable times for
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18 purposes including but not limited to: inspecting records, operating logs, and
19 contracts relating to the Site; reviewing the progress of Respondent in carrying out
20 the terms of this Consent Order; and conducting such tests as the Department
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22 may deem necessary. Respondent shall permit such persons to inspect and copy
23 all records, documents, and other writings, including all sampling and monitoring
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25 data, in any way pertaining to work undertaken pursuant to this Consent Order.
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27 10.9. Sampling, Data, and Document Availability: Respondent shall permit
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1 the Department and its authorized representatives to inspect and copy all
2 sampling, testing, monitoring, and other data generated by Respondent or on
3 Respondent's behalf in any way pertaining to work undertaken pursuant to this
4 Consent Order. Respondent shall allow the Department and its authorized
5 representatives to take duplicates of any samples collected by Respondent
6 pursuant to this Consent Order. Respondent shall maintain a central depository of
7 the data, reports, and other documents prepared pursuant to this Consent Order.
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9 All such data, reports, and other documents shall be preserved by Respondent for
10 a minimum of three years after the conclusion of all activities under this Consent
11 Order. If the Department requests that some or all of these documents be
12 preserved for a longer period of time, Respondent shall either comply with that
13 request, deliver the documents to the Department, or permit the Department to
14 copy the documents prior to destruction. Respondent shall notify the Department
15 in writing at least six months prior to destroying any documents prepared pursuant
16 to this Consent Order.

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22 10.10. Government Liabilities: The State of California shall not be liable for
23 injuries or damages to persons or property resulting from acts or omissions by
24 Respondent or related parties specified in paragraph 12.3, in carrying out activities
25 pursuant to this Consent Order, nor shall the State of California be held as a party
26 to any contract entered into by Respondent or its agents in carrying out activities
27 pursuant to this Consent Order.
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10.11. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

10.12. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

10.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

11. Within 30 days of the effective date of this Consent Order, Respondent shall pay the Department a total penalty of \$15,000.00. Respondent's check shall be made payable to Department of Toxic Substances Control, and shall identify the Respondent and Docket Number, as shown in the heading of this Consent Order. Respondent shall deliver the penalty payment together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent:

To: Pamela LePen
Statewide Compliance Division

1 Department of Toxic Substances Control
5796 Corporate Avenue
2 Cypress, CA 90630

3 To: Ramon B. Perez
Senior Staff Counsel
4 Department of Toxic Substances Control
2878 Camino Del Rio South, Ste. 402
5 San Diego, CA 92108
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7 If Respondent fails to make payment as provided above, Respondent
8 shall pay interest at the rate established pursuant to Health and Safety Code
9 section 25360.1 and to pay all costs incurred by the Department in pursuing
10 collection including attorney's fees.
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12 OTHER PROVISIONS

13 12.1. Additional Enforcement Actions: By agreeing to this Consent Order,
14 the Department does not waive the right to take further enforcement actions,
15 except to the extent provided in this Consent Order. This Consent Order shall
16 constitute full settlement of the violations alleged above.
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18 12.2. Penalties for Noncompliance: Failure to comply with the terms of this
19 Consent Order may subject Respondent to civil penalties and/or punitive damages
20 for any costs incurred by the Department or other government agencies as a result
21 of such failure, as provided by Health and Safety Code section 25188 and other
22 applicable provisions of law.
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24 12.3. Parties Bound: This Consent Order shall apply to and be binding upon
25 Respondent and its officers, directors, agents, receivers, trustees, employees,
26 contractors, consultants, successors, and assignees, including but not limited to
27 individuals, partners, and subsidiary and parent corporations, and upon the
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1 Department and any successor agency that may have responsibility for and
2 jurisdiction over the subject matter of this Consent Order.
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4 12.4. Effective Date: The effective date of this Consent Order is the date it
5 is signed by the Department.

6 12.5. Integration: This agreement constitutes the entire agreement between
7 the parties and may not be amended, supplemented, or modified, except as
8 provided in this agreement.
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13 Dated: 4/7/04

Original Signed by Jerry E. Milhorn

14 Jerry E. Milhorn
15 Vice President
16 Kinder Morgan Energy Partners L.P.

17 Dated: 4/22/04

Original Signed by Nennet V. Alvarez

18 Nennet V. Alvarez
19 Branch Chief
20 Statewide Compliance Division
21 Cypress Office
22 Department of Toxic Substances Control
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